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No. 80-2013

In the Supreme Court of the United States

OCTOBER TERM, 1980

MICHAEL HENDERSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

WADE H. MCCREE, JR.
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Following a jury trial in the United States District Court for the Eastern District of Missouri, petitioner was convicted of possession of cocaine with intent to distribute, in violation of 21 U.S.C. 841(a)(1). He was sentenced to twelve years' imprisonment and six years' special parole. The court of appeals affirmed (Pet. App. A-1 to A-5).

After the government waived its right to file a response to the petition in this case, the United States Attorney informed the Solicitor General that on May 26, 1981, petitioner failed to surrender himself to the proper authorities as ordered by the United States District Court for the Eastern District of Missouri. On the same date, a bench warrant was issued for his arrest. Given petitioner's present fugitive status, further review is not warranted. See *Molinaro* v. *New Jersey*, 396 U.S. 365 (1970).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.
Solicitor General

JUNE 1981

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